

To: Seter, David[Seter.David@epa.gov]
From: Jeryl Gardner
Sent: Tue 3/7/2017 9:16:37 PM
Subject: RE: Rio Tinto-1st Five-Year Review-Revised FYRR

Hi Dave,

I got your message from Friday.
Let me know when you have time for a call to discuss both Rio Tinto and Anaconda items of interest.

Thanks,
Jeryl

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-----Original Message-----

From: Seter, David [mailto:Seter.David@epa.gov]
Sent: Monday, March 6, 2017 10:37 AM
To: Lowrey, Jed; Jeryl Gardner; Bob Wenzlau (admin@mountaincityllc.com)
Cc: Wirschafter, Joshua
Subject: RE: Rio Tinto-1st Five-Year Review-Revised FYRR

From my perspective the MOA is a little confusing. For example, EPA sent comments on the Draft RCCCCR to NDEP. The MOA seems to read that if NDEP believes EPA's comments have been addressed there's no need for further EPA involvement. In our case, though, if I understand correctly the Draft RCCCCR has subsequently seen significant revision, not in response to EPA's comments, which were few, but in response to RTWG's comments. Does EPA get to review the revised draft to ensure the re-draft doesn't attribute statements or actions to EPA that we might not agree with, or does NDEP get to choose whether EPA reviews the revised draft?

And while the CD seems to envision EPA and NDEP will both certify completion, under the MOA there's no actual document on the record that EPA does in fact certify completion. The only documents on the record are EPA's comments on the Draft RCCCCR.

I'm copying Josh (ORC) in case he may shed some light on this -- I may be missing something -- I wasn't involved in negotiating the MOA.

From: Lowrey, Jed [jed.lowrey@tetrattech.com]
Sent: Thursday, February 16, 2017 8:51 PM
To: 'jgardner@ndep.nv.gov'; Seter, David; Bob Wenzlau (admin@mountaincityllc.com)
Subject: Rio Tinto-1st Five-Year Review-Revised FYRR

Attached is an updated version of the subject document following this afternoon's conference call. I tried to track changes in the document but that it work. I made the following changes:

- * Changed the date in the Header on one of the pages.
- * Deleted the Remedy Construction Completion Certification Letter from the Table of Contents-Attachments
- * Added a concurrence signature line
- * Added a sentence to the 1st paragraph in Section 1 to describe the participation and concurrence in the preparation of the FYRR.
- * Changed the Figure #s to Figure X s, pending preparation of a new set of figures.

At 8:30 PM tonight, I received an e-mail containing the NDEP-EPA Memorandum of Agreement which seems to indicate that all review/comment/comment resolution/concurrence by the EPA occurs prior to issuing the review, therefore having a EPA Concurrence signature line on the FYRR would be redundant.

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